

VALLEY MANAGEMENT, INC.

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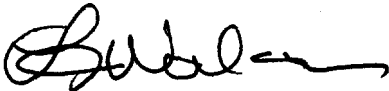
November 9, 1993

Mr. William F. Canton  
Acting Secretary  
Office of the Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Dear Mr. Canton:

Enclosed are one original and nine copies of comments by Valley Management, Inc., due November 10, 1993 in response to FCC 93-455; PP Docket No. 92-253 - In the Matter of Implementation of Section 309(j) of the Communications Act Competitive Bidding.

Sincerely,



Langston J. Walker  
President

LJW/cel

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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION**

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In the Matter of )  
Implementation of Section )  
309(j) of the Communications )  
Act Competitive Bidding )  
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Docket No. 93-455  
PP Docket No. 93-253

**COMMENTS OF VALLEY MANAGEMENT, INC.**

Valley Management, Inc. (VMI) hereby respectfully submits comments on the Commission Notice of Proposed Rule Making (NPRM), regarding Implementation of Section 309(j) of the Omnibus Budget Reconciliation Act of 1993 (Budget Act) adopted September 23, 1993 which is now part of the Communications Act of 1934.

VMI supports the Commission's plans to implement provisions of the Budget Act allowing competitive bidding to award PCS licenses. In addition, VMI also support the Commission's decision to allocate two of the seven spectrum bands for exclusive bidding among rural telephone companies, small business and minority and women owned businesses. In our opinion, more should be done to create opportunities for certain women and minority owned businesses.

VMI believes, as a minority owned business, that the Commission should implement the recommendations made by the FCC Small Business Advisory Committee (SBAC) and consider designating band C, the 20 MHz band, as the Infrastructure Preference band<sup>1</sup> to meet the Congressional objectives described in the Budget Act.

### **Designated Entities**

For obvious reasons, Congress required the objective of promoting economic opportunity for certain entities. The entities are small businesses, rural telephone companies and businesses owned by women and minorities. The Commission has a number of tools available to implement the Congressional objective. However, the implementation of the tools should not be made available to all eligible groups equally.

Rural telephone companies have had access to capital markets and are profitable operations as a result of existence in a regulated economic environment. As a result, VMI recommends that rural telephone companies be limited to bidding on spectrum in the 10 MHz band set-aside for designated entities. The 20 MHz band should be set-aside for small businesses, women and minority businesses. Otherwise, rural telephone

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<sup>1</sup>VMI first became aware of the Infrastructure preference concept based on review of Calcell Wireless comments filed in the Commission's NPRMTD for GEN Docket 90-34, November 9, 1992. VMI endorses the concept and understands that Calcell has updated its proposal and will file comments in this docket. VMI refers the Commission to Calcell's latest comments for a description of infrastructure preferences.

companies can participate as a small business in the auctions of the 20 MHz spectrum and also bid against other large businesses.

The greatest obstacle faced by women and minority owned business is adequate capital to finance acquisition and expansion of businesses. This is particularly true in the capital intensive telecommunications industry. The number of firms and investment levels for minority and women owned businesses represented in the industry are dismal when compared to the total industry.

The FCC SBAC Report recommended several proposals which VMI endorses:

- Use of tax certificates, and other financing techniques to encourage capital formation for owners and investors in minority owned and controlled licensees.
- Allow minority and female applicants to certify financial qualifications based on "highly confident" letter and letters of intent from qualified investment banking firms, venture capital funds and Specialized Small Business Investment Companies.
- Awarding Innovator's bidding credits equal to 10% or more of an applicants bid in situations where the eligibility criteria can be defined.
- Allow installment payment and royalty payments for qualified small female and minority businesses.
- Authorize distress sales to small business entities where winning bidders are unable to pay, or complete construction requirements.
- Seek legislation establishing a communications capital fund from revenues generated by spectrum auctions.

Minority firms must be provided greater assistance and to a lesser extent women owned firms to overcome the historical results due to a lack of capital access in the past.

### **Installment Payments**

As previously stated, capital formation is the most significant barrier to entry into the telecommunications industry. One method to minimize the effect of lack of access to capital by small businesses, minority and women owned businesses is to allow the winning bidder to make unconditional installment payments without interest. The time period for the payments should be ten years which is equal to the life of the licensee. The winning bidder would be required to pay 10% at the time of license award.

### **Minority Business Definition**

We concur with the FCC to rely on existing Commission rules and policies to define a minority business. The definition should include those of Black, Hispanic Surnamed, American Eskimo, Aleut, American Indian and Asiatic American extraction. Women should not be included as a minority unless the woman is a member of one of the above groups.

**Businesses should qualify for preferential measures if women or minorities own 20% or more of the equity and have voting control of the business.**

## **Conclusion**

**VMI believes that the comments included here will promote economic opportunity and achieve certain objectives as required in the Budget Act. As a result of implementation of the comments included here, the public interest, small businesses, women and minority businesses will benefit.**